IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FOURTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE Mr. JUSTICE C.V.RAMULU**

**WRIT PETITION No.21258 of 1998**

Between:

1 The Managing Director, A.P. Fisheries Corporation,
Hyderabad.
2 The General Manager (P & E), ICE-cum-Cold Storage

and Processing Plant, A.P. Fisheries Corporation,
Visakhapatnam.

**..... PETITIONERS**

AND

1 Sri P.V.Ramana, S/o. Raminaidu,
4-5-3, Isukathota, Visakhapatnam.
2 The Chairman, Additional Industrial Tribunal Cum Labour Court,
Visakhapatnam.

**....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction in the nature of Certiorari declaring the award made by the 2nd Respondent in I.D.No.62/94 published vide G.O.Rt.No.3334, dated 31.12.97 as arbitrary, illegal, not based on principles of law and quash the same.

**Counsel for the Petitioner: Mr. C.V.MOHAN R.EDDY**

**Counsel for the Respondent No.1: Smt. N(P) ANJANA DEVI &**

**Sri P. SATYANARAYANA**

**Counsel for the Respondent No.2: GP FOR LABOUR**

**The Court made the following :**

**ORAL ORDER:**

This writ petition is filed by the Management – Andhra Pradesh Fisheries Corporation, Hyderabad – being aggrieved by the Award passed by the Additional Industrial Tribunal-cum-Labour Court, Visakhapatnam in I.D.No.62 of 1994, dated 1-12-1997.

The services of the 1st respondent-workman were terminated by an order dated 11/24-1-1994; in the result, the workman approached the Tribunal and filed a claim petition under Section 2-A(2) of the Industrial Disputes Act,1947 (for short 'the Act'). It was the case of the 1st respondent that he had worked as a Process Boy under the control of the General Manager, A.P. Fisheries Corporation, Visakhapatnam from 26-6-1982 to 31-1-1983 initially. While the things stood thus, the Management illegally terminated his services on 31-1-1983. Therefore, he raised a dispute in I.D.No.135 of 1990. The Labour Court passed an Award directing his reinstatement. In the result, he was reinstated and joined at Visakhapatnam Office on 27-9-1993. The employer, however, nursed grudge against him and ultimately issued the impugned Proceedings terminating the services of the workman with immediate effect. It was his case that his juniors are continued and absorbed in the Department, whereas his services were terminated illegally. Before the Labour Court, on behalf of the workman he examined himself as W.W.1 and marked Exs.W1 and W2 and on behalf of the Management M.W.1 was examined and Ex.M1 was marked. After consideration of the entire oral and documentary evidence and the material placed

before it, the Labour Court came to the conclusion that the Management had violated the provisions of both Sections 25-F and 25-G of the Act, which rendered the termination untenable in law, set aside the termination order passed by the Management and directed it to reinstate the workman with back wages and continuity of services for all purposes including seniority, promotion etc. Aggrieved by the same, the present writ petition is filed.

A detailed counter affidavit has been filed by the 1st respondent-workman denying the allegations made by the petitioner and supporting the award passed by the Labour Court.

Heard both sides.

I have given my earnest consideration to the submissions made by both the learned counsel and gone through the entire evidence adduced before the Labour Court and also the impugned Award.

It is not denied by the management that the workman has not put in 240 days of service as required under Section 25-F of the Act. It is also not denied that the services of the workman were terminated by an order dated 11-1-1994 and issued the Pay Order No.930543, dated 24-1-1994 for Rs.5,460/- towards payment of one month's wages in lieu of notice and retrenchment compensation. Therefore, the finding of the Labour Court that the Management has violated the provisions of Section 25-F of the Act cannot be found fault with.

The law is well settled that while terminating the services of a workman, who has completed 240 days of continuous service, he should be given one month's notice or paid one month's wages in lieu of notice and also the retrenchment compensation simultaneously on the date of retrenchment itself. This is an admitted case where the impugned termination order was passed on 11-1-1994 and the Pay Order for Rs.5,460/-, dated 24-1-1994 was issued on 24-1-1994. Thus, there was a gap of 13 days in payment of compensation as required under Section 25-F of the Act. Therefore, the order of termination is *ex facie* illegal and does not stand the scrutiny of law. Thus, the Award passed by the Labour Court declaring the termination order as illegal and directing reinstatement of the workman with continuity of service for all purposes including seniority, promotion etc., and awarding full back wages cannot be said to be either arbitrary or illegal. The Labour Court has not committed any

legal infirmity requiring the interference of this Court under Article 226 of the Constitution of India. Therefore, the Writ Petition is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No order as to costs.

14-6-2005

prk

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Managing Director, A.P. Fisheries Corporation,
Hyderabad.
2 The General Manager (P & E), ICE-cum-Cold Storage

and Processing Plant, A.P. Fisheries Corporation,
Visakhapatnam.

3 The Chairman, Additional Industrial Tribunal Cum Labour Court,
Visakhapatnam.

4 2 CCs to Government Pleader for Labour, High Court Buildings, Hyderabad (OUT).

5 2 CD copies.